

Senate Bill No. 1064

Passed the Senate May 1, 2014

Secretary of the Senate

Passed the Assembly August 22, 2014

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 960 of, and to add Section 765 to, the Public Utilities Code, relating to public utility safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 1064, Hill. Public Utilities Commission: railroads: natural gas pipelines: safety.

Existing law provides that the Public Utilities Commission has certain responsibilities for the inspection, surveillance, and investigation of the rights-of-way, facilities, equipment, and operations of railroads, including public mass transit guideways, and for enforcement of state and federal laws, regulations, orders, and directives relative to rail safety.

The Natural Gas Pipeline Safety Act of 2011 designates the commission as the state authority responsible for regulating and enforcing federal law with respect to intrastate gas pipeline transportation and pipeline facilities. When the federal National Transportation Safety Board (NTSB) submits a safety recommendation letter concerning gas pipeline safety to the commission, the act requires the commission, within 90 days, to provide the NTSB with a formal written response to each recommendation, as specified. When the NTSB issues a safety recommendation letter concerning any commission-regulated gas pipeline facility to the United States Department of Transportation, the federal Pipeline and Hazardous Materials Safety Administration (PHMSA), a gas corporation, or to the commission, or the PHMSA issues an advisory bulletin concerning any commission-regulated gas pipeline facility, the act requires the commission to determine if implementation of the recommendation or advisory is appropriate and requires the commission, in that case, to issue orders or adopt rules to implement the safety recommendations or advisory as soon as practical and to consider whether specified alternatives exist to address the safety issue that the recommendation or advisory addresses. The act additionally requires the commission to include a detailed description of any action taken on the recommendations or advisory in a specified annual report to the Legislature.

This bill would enact similar provisions applicable to NTSB safety recommendations and Federal Transit Administration (FTA) safety advisories concerning rail facilities. With respect to natural gas pipelines, if the commission receives a correspondence from the NTSB that indicates that a recommendation of the NTSB has been closed following an action that the NTSB finds unacceptable, the bill would require this fact to be noted in the annual report submitted to the Legislature.

Under existing law, a violation of an order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because this bill would require the commission to issue orders or adopt rules to implement any safety recommendation of the NTSB and safety advisories of the FTA relative to rail facilities that the commission determines to be appropriate, and a violation of those orders or rules would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 765 is added to the Public Utilities Code, to read:

765. (a) When the federal National Transportation Safety Board (NTSB) submits a safety recommendation letter concerning rail safety to the commission, the commission shall provide the NTSB with a formal written response to each recommendation no later than 90 days after receiving the letter. The response shall state one of the following:

(1) The commission's intent to implement the recommendations in full, with a proposed timetable for implementation of the recommendations.

(2) The commission's intent to implement part of the recommendations, with a proposed timetable for implementation of those recommendations, and detailed reasons for the

commission's refusal to implement those recommendations that the commission does not intend to implement.

(3) The commission's refusal to implement the recommendations, with detailed reasons for the commission's refusal to implement the recommendations.

(b) If the NTSB issues a safety recommendation letter concerning any commission-regulated rail facility to the United States Department of Transportation, the Federal Transit Administration, to a commission-regulated rail operator, or to the commission, or if the Federal Transit Administration issues a safety advisory concerning any commission-regulated rail facility, the commission shall determine if implementation of the recommendation or advisory is appropriate. The basis for the commission's determination shall be detailed in writing and shall be approved by a majority vote of the commission.

(c) If the commission determines that a safety recommendation made by the NTSB is appropriate, or that action concerning a safety advisory is necessary, the commission shall issue orders or adopt rules to implement the safety recommendations or advisory as soon as practicable. In implementing the safety recommendation or advisory, the commission shall consider whether a more effective, or equally effective and less costly, alternative exists to address the safety issue that the recommendation or advisory addresses.

(d) Any action taken by the commission on a safety recommendation letter or safety advisory shall be reported annually, in detail, to the Legislature with the report required by Section 321.6. Any correspondence from the NTSB indicating that a recommendation has been closed following an action that the NTSB finds unacceptable shall be noted in the report required by Section 321.6.

SEC. 2. Section 960 of the Public Utilities Code is amended to read:

960. (a) When the federal National Transportation Safety Board (NTSB) submits a safety recommendation letter concerning gas pipeline safety to the commission, the commission shall provide the NTSB with a formal written response to each recommendation not later than 90 days after receiving the letter. The response shall state one of the following:

(1) The commission's intent to implement the recommendations in full, with a proposed timetable for implementation of the recommendations.

(2) The commission's intent to implement part of the recommendations, with a proposed timetable for implementation of those recommendations, and detailed reasons for the commission's refusal to implement those recommendations that the commission does not intend to implement.

(3) The commission's refusal to implement the recommendations, with detailed reasons for the commission's refusal to implement the recommendations.

(b) If the NTSB issues a safety recommendation letter concerning any commission-regulated gas pipeline facility to the United States Department of Transportation, the federal Pipeline and Hazardous Materials Safety Administration (PHMSA), a gas corporation, or to the commission, or the PHMSA issues an advisory bulletin concerning any commission-regulated gas pipeline facility, the commission shall determine if implementation of the recommendation or advisory is appropriate. The basis for the commission's determination shall be detailed in writing and shall be approved by a majority vote of the commission.

(c) If the commission determines that a safety recommendation made by the NTSB is appropriate or that action concerning an advisory bulletin is necessary, the commission shall issue orders or adopt rules to implement the safety recommendations or advisory as soon as practicable. In implementing the safety recommendation or advisory, the commission shall consider whether a more effective, or equally effective and less costly, alternative exists to address the safety issue that the recommendation or advisory addresses.

(d) Any action taken by the commission on a safety recommendation letter or advisory bulletin shall be reported annually, in detail, to the Legislature with the report required by Section 321.6. Any correspondence from the NTSB that indicates that a recommendation of the NTSB has been closed following an action that the NTSB finds unacceptable shall be noted in the report required by Section 321.6.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school

district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2014

Governor